

# Court of Appeals, State of Michigan

## ORDER

Township of Lyndon v George Kapp

Docket No. 259658

LC No. 98-009803-AV

Michael R. Smolenski  
Presiding Judge

William B. Murphy

Jane E. Markey  
Judges

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The Court orders, pursuant to MCR 7.205(D)(2), in lieu of granting the application for leave to appeal, the November 23, 2004 order of the circuit court is VACATED. The circuit court abused its discretion when it granted the motion to reinstate the appeal. Plaintiff's lengthy and unjustified delay in seeking reinstatement, as well as its failure to take any action to avoid the dismissal once the notice of intent to dismiss was received, unequivocally reflects plaintiff's intent to long ago abandon the appeal. It should not now be heard to complain when it had numerous timely options available to it to either prevent the dismissal or to secure timely reinstatement, but employed none of them. See *Hailey v Saginaw Justice of the Peace*, 320 Mich 59, 63-64; 30 NW2d 437 (1948).



A true copy entered and certified by Sandra Schultz Mengel, Chief Clerk, on

MAY 09 2005  
Date

*Sandra Schultz Mengel*  
Chief Clerk